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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/807,562

Filing Date: March 23, 2004

Appellant(s): MARVIT ET AL.

Chad C. Walters
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/27/07 appealing from the Office action mailed

3/27/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,598,187	Ide et al	1-1997
20040061621	Ishida	04-2004
WO 01/86920	Lapidot	11-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-6, 8-12, 14-18, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ide et al (US 5,598,187 hereinafter Ide) in view of Ishida (US 2004/0061621).

As to claims 1, 20, Figs. 1-3 of Ide discloses a handheld device (1) comprising: a motion detection module (motion detectors) operable to detect motion of the handheld device within three dimensions, a gesture database (motion pattern memory 42 in Fig. 15) maintaining a plurality of remote command gestures, each remote command gesture defined by a motion of the device with respect to a position of the handheld device (see Figs. 16, 17, and col. 14, lines 7-42); a gesture mapping database comprising a mapping of each of the remote command gestures to an associated command for controlling operation of the remote device (col. 14, lines 39-47); a control module (Fig. 15) operable to track movement of the handheld device using the motion detection module (motion detectors 30a, 30b), to compare the tracked movement against the remote command gestures to determine a matching gesture, and to identify the one of the commands corresponding to the matching gesture; and a wireless interface operable to transmit the identified command to a remote receiver for delivery to the remote device (col. 14, lines 7-47 for example).

Ide does not disclose the handheld device comprising a display having a viewable surface and operable to generate an image indicating a currently controlled remote device. However, Fig. 2 of Ishida teaches a remote control device including a display (monitor 17) having a viewable surface and operable to generate an image (lines 5-7 in [0025]). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify

the handheld device of Ide to have a display as taught by Ishida such that a user can control the device while viewing the build-in monitor ([0013], [0041] of Ishida) and also “sets the operational feel of the rotating wheel to that corresponding to the notebook computer” ([0031] of Ishida; also see [0032, 0036, 0041]) such that the device can be easily controlled while viewing the built-in monitor (see Ishida [0041, 0043, 0046]).

As to claim 2, Fig. 7B of Ide teaches the remote receiver comprises a wireless interface of the remote device.

As to claim 3, Fig. 2 of Ishida teaches the remote receiver comprises an element of a public wireless telephone network (5).

As to claims 4, 5, Ide teaches the identified command of the remote receiver comprises audio/visual equipment (col. 14, lines 14-21).

As to claim 6, Ide teaches the wireless interface is operable to transmit the matching gesture to the remote receiver for delivery to the remote device (see Fig. 15).

Claims 8-12, 14-18 , which are method claims corresponding to the above apparatus claims 1-5, are rejected for the same reasons as stated above since such method "steps" are clearly read on by the corresponding "means".

2. Claims 7, 13, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ide and Ishida as applied to claim 1 above, and further in view of Lapidot (WO 01/86920).

Ide as modified by Ishida does not explicitly disclose using first, second and third accelerometers for sensing the motion of the device along a first, second and third axis. However, Fig. 6 of Lapidot teaches using three accelerometers (601-A to 601-C) for sensing the

motion of the handheld device along a first, second and third axis. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the handheld device of Ide as modified by Ishida employ first, second and third accelerometers for sensing the motion of the handheld device along a first, second and third axis as taught by Lapidot since the three accelerometers measure the acceleration of the device along three independent directions precisely.

(10) Response to Argument

Appellant's remarks regarding Ide on pages 10-11 are not persuasive. Appellant's argument in that Ide does not disclose, teach, or suggest "a wireless interface operable to transmit the identified command to a remote receiver for delivery to the remote device", are not persuasive. The motion code indicating the corresponding basic motion pattern is the identified command, and the remote control transmitting circuit 43 and infrared LED 34 are a wireless interface. Col. 14, lines 43-47 of Ide clearly discloses "The motion code is transmitted from the infrared remote-control transmitting circuit 43 and the infrared light-emitting element 34 to the control target device. Receiving the code, the control target device executes a control process according to the given motion code" (emphasis added by examiner), clearly, the motion code in Ide is **the identified command**, even though Ide does not explicitly use the term "command" it is clear that Ide's "motion code" is a "command" as claimed.

In response to appellant's argument on pages 11-13 that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the

knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Ishida teaches that a user can control the device while viewing the build-in monitor ([0013, 0041] of Ishida) and also “sets the operational feel of the rotating wheel to that corresponding to the notebook computer” ([0031] of Ishida; also see [0032, 0036, 0041]) such that the device can be easily controlled while viewing the built-in monitor (see Ishida [0041, 0043, 0046]). Ishida clearly provided reasons to combine and provide for a monitor on the remote control device. Therefore, appellant’s remarks are not persuasive.

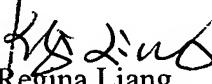
Appellant’s remarks on page 13 that “Ide clearly teaches away from any combination that places a monitor on its spatial control device as described in Ide” are misleading and not persuasive. Although Ide called his handheld device 1 a “spatial control mouse”, the “spatial control mouse” of Ide is not a conventional mouse as alleged by the appellant. Ide’s “spatial control mouse” not only controls the cursor on a screen of a PC (Fig. 3), it also controls multi functions of a multimedia TV or a computer (e.g. see Figs. 12, 17, 33). Clearly, Ide’s “spatial control mouse” is a multi-functions handheld remote controller and not just a mouse as erroneously alleged by appellant. Ishida teaches a remote controller which is similar to Ide. Fig. 1 of Ishida teaches the remote controller not only controls the function of a PC (1), it also controls functions of multimedia devices (PDA, CAMCORDER, etc.). Thus, to modify the “spatial control mouse” of Ide to have the display screen in the remote controller as taught by Ishida would have been obvious to one having ordinary skill in the art since a user can control the device while viewing the build-in monitor ([0013], [0041] of Ishida). Therefore, Appellant’s remarks are not persuasive.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


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